

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDDIE L. DILLARD,

Petitioner,

v.

Case No. 03-CV-71269
HON. GEORGE CARAM STEEH

SHERRY BURT,

Defendant.

_____ /

ORDER DENYING PETITIONER'S FIFTH MOTION FOR RELIEF
FROM JUDGMENT (#80) AND PETITIONER'S MOTION TO REINSTATE
HABEAS CORPUS PROCEEDING AND REOPEN JUDGMENT (#81)

On September 6, 2012, petitioner Eddie Dillard filed his fifth motion for relief from judgment arguing his 1997 state court convictions and sentence should be vacated because the Michigan Office of Secretary of State was not in possession of a public record indicating that the presiding state court judge had been administered an oath of office. On February 1, 2013, petitioner filed a motion to reinstate habeas corpus proceeding and reopen judgment pursuant to Rule 60(b) on the same basis. This argument was made in his earlier motions for relief from judgment, in addition to other filings and appeals, and has been rejected by this court and the Sixth Circuit. Petitioner also appears to assert a double jeopardy argument that was rejected by this court on June 2, 2004 and then rejected by the Sixth Circuit. Petitioner's Rule 60(b) motions are denied because he has failed to offer any arguments which this court has not already considered and rejected in prior orders. The court will also deny petitioner a certificate of appealability as he failed to make a substantial showing of the denial of a constitutional right or that this court's procedural ruling is wrong.

The court will deny petitioner leave to appeal *in forma pauperis*, because the appeal would be frivolous. For these reasons, as well as the reasons stated in this court's earlier orders, petitioner's motion for relief from judgment (#80) is DENIED, petitioner's motion to reopen pursuant to Rule 60(b) (#81) is DENIED, a certificate of appealability is DENIED, and petitioner will be DENIED leave to appeal *in forma pauperis*.

SO ORDERED.

Dated: March 19, 2013

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 19, 2013, by electronic and/or ordinary mail and also to Eddie L. Dillard, P254178, Lakeland Correctional Facility, 141 First Street, Coldwater, MI 49036.

s/Barbara Radke
Deputy Clerk